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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/808,245	03/24/2004	Taeyoung Han	DP-310179	4199

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EXAMINER

BAREFORD, KATHERINE A

ART UNIT	PAPER NUMBER
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1762

DATE MAILED: 09/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/808,245

Applicant(s)

HAN ET AL.

Examiner

Katherine A. Bareford

Art Unit

1762

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 21 September 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-10 and 21.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

Continuation of 3. NOTE: the proposed amendment to claim 1 raises new issues, as in part c) the conditioning chamber is now "downstream from" rather than "different than" the exchange chamber, and in part d) provides new requirements as to the temperature of the particles. The proposed amendment to claim 21 raises new issues, as new limits as to the temperature are provided. The additions to these claims would require further consideration and/or search by the Examiner.

Continuation of 11. does NOT place the application in condition for allowance because: (1) as to the double patenting rejection, this is maintained for the reasons given in the Final Rejection as applicant has not provided any arguments against the rejection. (2) As to the 35 USC 112, first and second paragraph rejections, these are maintained for the reasons given in the Final Rejection as the proposed amendments will not be entered for the reasons given in Box 3 above. (3) As to the 35 USC 103 rejection of the claims, the Examiner has reviewed applicant's arguments, however, the rejection is maintained. The Examiner maintains her position for the reasons as discussed at pages 14-15 of the Final Rejection. As to applicant's arguments that Kay was concerned with particles of 10-40 microns in size while Van Steenkiste is concerned with particles having a particle size greater than 50 microns, the Examiner notes that Van Steenkiste shows that the system will also deposit particles of less than 50 microns, see Table 2. Moreover, the device of Van Steenkiste corresponds in shape to the system of Kay, with Van Steenkiste teaching the benefits of a smaller diameter powder feed. Since a powder feed tube would still be present and placed, Kay's description of adjusting the placement of the feed tube would still apply for the same reasons. As to the argument that the Examiner indicated that the use of a longer exchange chamber is explicitly desired by Van Steenkiste to provide a higher overall gas/powder mixture temperature, the Examiner disagrees. The Examiner was of the position that "a high air temperature" was explicitly desired by Van Steenkiste. The long chamber was suggested from that desire. As to the argument that a longer chamber would "actually increase the amount of relatively cooler air", the Examiner disagrees. How would the amount of cooler air be increased, since the same amount of air would be coming through the tube regardless of its placement? The longer length would allow more time for the temperature to reach equilibrium as discussed at pages 14-15 of the Final Rejection. The combination of the references would allow for using the smaller diameter tube AND the longer chamber length, since both provide benefits that are not mutually exclusive.

Kath B
KATHERINE BAREFORD
PRIMARY EXAMINER